

Exhibit 1

Declaration of Danielle E. Karst and CFTC's
Compensatory Damages Worksheet

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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 COMMODITY FUTURES TRADING
10 COMMISSION,

11 Plaintiff,
12 v.
13 DAVID GILBERT SAFFRON
14 a/k/a DAVID GILBERT and
CIRCLE SOCIETY, CORP.,
15 Defendant.

Case No. 2:19-cv-1697-JAD-DJA

16 **DECLARATION OF DANIELLE KARST**
17 **IN SUPPORT OF PLAINTIFF'S MOTION**
18 **FOR FEES AND EXPENSES CAUSED BY**
19 **DEFENDANTS' CONTEMPT**

20 I, Danielle E. Karst, hereby declare as follows:

21 1. I am counsel for Plaintiff Commodity Futures Trading Commission ("Plaintiff" or
22 "CFTC") in this action and have personal knowledge of the facts stated herein.

23 2. I submit this Declaration to verify and claim fees and expenses incurred by the
24 CFTC in connection with the contempt of Defendants David Saffron ("Saffron") and Circle
25 Society, Corp. ("Circle Society").

26 3. The CFTC filed two motions in order to address Defendants' failures to comply
27 with the Court's October 3, 2019 Temporary Restraining Order ("TRO," ECF No. 9) and
28 December 6, 2019 Preliminary Injunction Order ("PI Order," ECF No. 31): Motion for Issuance
of an Order to Show Cause as to Why Defendant Circle Society Should Not Be Held in Civil

1 Contempt for Violation of the Court's October 3, 2019 TRO ("Show Cause Motion I," ECF No.
 2 24), and Motion for Issuance of Order to Show Cause as to Why Defendants David Saffron and
 3 Circle Society Should Not Be Held in Civil Contempt for Violations of the Court's December 6,
 4 2019 Preliminary Injunction Order ("Show Cause Motion II," ECF No. 40).

5 4. In connection with the CFTC's Show Cause Motions I and II, CFTC Investigator
 6 George H. Malas and I expended time and the CFTC incurred expenses in investigating whether
 7 Defendants violated this Court's TRO and PI Order, collecting evidence of the violations, and
 8 preparing for and participating in three hearings before the Court.¹ *See Minutes of Proceedings,*
 9 ECF Nos. 30, 47, 53.

10 5. I expended seventy-two (72) hours of attorney time at a value of \$6,840 in
 11 connection with the CFTC's Show Cause Motions I and II for Defendants' contempt. To
 12 calculate this value, I multiplied the number of attorney hours worked by the hourly rate the
 13 CFTC expends for my work time.² Although I spent hundreds of hours making demands on
 14 Defendants to comply with the TRO and PI Order, conducting legal research, and drafting the
 15 Show Cause Motions I and II, the CFTC is requesting only seventy-two (72) hours for my work
 16 in connection with Defendants' contempt, which includes the day prior to each court hearing, the
 17 day of each court hearing, and the day following each hearing. *See CFTC's Compensatory*
 18 *Damages Worksheet*, attached to this Declaration. The following is a description of work I
 19 performed in connection with the CFTC's Show Cause Motions I and II:

20
 21
 22
 23 ¹ There were three court hearings in connection with Defendants' contempt: December 2,
 24 2019, January 10, 2020, and January 24, 2020. CFTC Investigator George H. Malas prepared
 25 for and attended the first hearing on December 2, 2019. I prepared for and attended all three
 hearings in connection with Defendants' contempt.

26 ² My hourly rate is \$95 per hour, which is calculated by dividing my annual gross salary by
 27 2087 work hours per year.

1 a. Prepared for and traveled to/from Las Vegas, NV for December 2, 2019 hearing:
 2 Reviewed documents, case law, newly-filed motion by defense counsel and order
 3 (ECF Nos. 28, 29), and Show Cause Motion I; attended hearing 24 hours
 4
 5 b. Prepared for and traveled to/from Las Vegas, NV for January 10, 2020 hearing:
 6 Reviewed documents, case law, correspondence from Defendant, and Show Cause
 7 Motion II; attended hearing 24 hours
 8
 9 c. Prepared for and traveled to/from Las Vegas, NV, for January 24, 2020 hearing:
 10 Reviewed documents, case law, and Show Cause Motion II; drafted proposed
 11 contempt order with recommended sanctions; attended hearing 24 hours

12 6. CFTC Investigator George H. Malas expended twenty-four (24) hours of
 13 investigator time at a value of \$1,937.28 in connection with the CFTC's Show Cause Motion I
 14 for Defendants' contempt. To calculate this value, he multiplied the number of investigator
 15 hours worked by the hourly rate the CFTC expends for his work time.³ Although Mr. Malas
 16 spent over one-hundred (100) hours, investigating, collecting evidence, and reviewing customer
 17 correspondence, the CFTC is requesting only twenty-four (24) hours for his work in connection
 18 with Defendants' contempt, which includes the day prior to the December 2, 2019 court hearing,
 19 the day of the December 2, 2019 court hearing, and the day following the December 2, 2019
 20 hearing. *See* CFTC's Compensatory Damages Worksheet, attached to this Declaration. The
 21 following is a description of work CFTC Investigator Malas performed in connection with the
 22 CFTC's Show Cause Motion I:

23 Prepared for and traveled to/from Las Vegas, NV, for December 2, 2019 hearing:
 24 Reviewed documents, customer correspondence, newly-filed motion by defense
 25 counsel and order (ECF Nos. 28, 29); attended hearing 24 hours

26 7. The CFTC incurred travel expenses of \$5,502.02 in connection with the
 27 December 2, 2019, January 10, 2020, and January 24, 2020 hearings on its Show Cause Motions

28 ³ Mr. Malas' hourly rate is \$80.72 per hour, which is calculated by dividing his annual gross
 29 salary by 2087 work hours per year.

I and II for Defendants' contempt. *See* CFTC's Compensatory Damages Worksheet, attached to this Declaration. The following is an itemization of those expenses:

December 2, 2019 Hearing

- a. Round trip airfare between Washington, D.C. and Las Vegas, Nevada for Danielle Karst and George Malas \$1,359.19
- b. Lodging for Danielle Karst and George Malas for the nights of December 1-2, 2019 in Las Vegas, Nevada \$787.24
- c. Government per diem allowance for Danielle Karst and George Malas for December 1-3, 2019 \$366.00
- d. Taxis in Washington, D.C. and Las Vegas, Nevada for December 1-3, 2019 (including to/from airports and courthouse) \$311.63

January 10, 2020 Hearing

- a. Round trip airfare between Washington, D.C. and Las Vegas, Nevada for Danielle Karst \$604.60
- b. Lodging for Danielle Karst for the nights of January 9-10, 2020 in Las Vegas, Nevada \$333.54
- c. Government per diem allowance for Danielle Karst for January 9-11, 2020 \$152.50
- d. Taxis in Washington, D.C. and Las Vegas, Nevada for January 9-11, 2020 (including to/from airports and courthouse) \$149.01

January 24, 2020 Hearing

- a. Round trip airfare between Washington, D.C. and Las Vegas, Nevada for Danielle Karst \$730.78
- b. Lodging for Danielle Karst for the nights of January 23-24, 2020 in Las Vegas, Nevada \$414.21
- c. Government per diem allowance for Danielle Karst for January 23-25, 2020 \$152.50
- d. Taxis in Washington, D.C. and Las Vegas, Nevada for January 23-25, 2020 (including to/from airports and courthouse) \$140.82

8. Based on the above-listed fees and expenses, the CFTC claims a total amount of \$14,279.30 as compensatory damages for Defendants' failures to comply with this Court's October 3, 2019 TRO and December 6, 2019 PI Order.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 31, 2020.

/s/ Danielle E. Karst

CFTC's Compensatory Damages Worksheet: Calculation for Attorney's and Investigator's Fees and Expenses Incurred in the Investigation and Prosecution of Defendants' Contempt

STAFF HOURS WORKED CALCULATION				
EMPLOYEE	DATES	HOURS WORKED	VALUE	DESCRIPTION
CFTC Investigator George Malas	12/1/2019 - 12/3/2019	24	\$1,937.28	Time spent preparing for and attending the December 2, 2019 Court Hearing re: the CFTC's Motion for Issuance of Order to Show Cause, ECF No. 24 (Show Cause Motion I)
	12/1/2019 - 12/3/2019	24	\$2,280.00	Time spent preparing for and attending the December 2, 2019 Court Hearing re: the CFTC's Motion for Issuance of Order to Show Cause, ECF No. 24 (Show Cause Motion I)
CFTC Trial Attorney Danielle Karst	1/9/2020 - 1/11/2020	24	\$2,280.00	Time spent preparing for and attending the January 10, 2020 Court Hearing re: the CFTC's Motion for Issuance of Order to Show Cause, ECF No. 40 (Show Cause Motion II)
	1/23/2020 - 1/25/2020	24	\$2,280.00	Time spent preparing for and attending the January 24, 2020 Contempt Hearing, ECF Nos. 40, 48
	TOTAL	96	\$8,777.28	
STAFF TRAVEL COST CALCULATION				
EMPLOYEE	TRAVEL DATES	EXPENSE	COST	DESCRIPTION
CFTC Investigator George Malas	12/1/2019 - 12/3/2019	Airfare	\$754.59	Travel from Washington, DC to Las Vegas, NV for the December 2, 2019 Court Hearing re: the CFTC's Motion for Issuance of Order to Show Cause, ECF No. 24 (Show Cause Motion I)
		Lodging	\$386.12	
		Per Diem	\$152.50	
		Taxis	\$175.89	
		Subtotal	\$1,469.10	
CFTC Trial Attorney Danielle Karst	12/1/2019 - 12/3/2019	Airfare	\$604.60	Travel from Washington, DC to Las Vegas, NV for the December 2, 2019 Court Hearing re: the CFTC's Motion for Issuance of Order to Show Cause, ECF No. 24 (Show Cause Motion I)
		Lodging	\$401.12	
		Per Diem	\$213.50	
		Taxis	\$135.74	
		Subtotal	\$1,354.96	
	1/9/2020 - 1/11/2020	Airfare	\$604.60	Travel from Washington, DC to Las Vegas, NV for the January 10, 2020 Court Hearing re: the CFTC's Motion for Issuance of Order to Show Cause, ECF No. 40 (Show Cause Motion II)
		Lodging	\$333.54	
		Per Diem	\$152.50	
		Taxis	\$149.01	
		Subtotal	\$1,239.65	
	1/23/2020 - 1/25/2020	Airfare	\$730.78	Travel from Washington, DC to Las Vegas, NV for the January 24, 2020 Contempt Hearing, ECF Nos. 40, 48
		Lodging	\$414.21	
		Per Diem	\$152.50	
		Taxis	\$140.82	
		Subtotal	\$1,438.31	
		TOTAL	\$5,502.02	
		GRAND TOTAL	\$14,279.30	